IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY EIGHTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION NO : 21817 of 1999

Between:

1. Daya Shankar Singh s/o LAte. Hanmanth Singh
   R/o 1-3 , Mohan Nagar , Kothapeta ,
   Hyderabad.
2. Pratap Narayan Singh s/o Late. Vishnu Shankar Singh
   r/o Fatullaguda (V) , Uppal Mandal ,
   R R District.
3. Raj Mohan Singh S/o Late. Vishnu Shankar Singh
   r/o Fatullaguda (V) , Uppal Mandal ,
   R R District.
4. Santhosh Singh S/o Late. Bansi Bahadur Singh
   R/o SBH Colony , Mohan Nagar , Kothapeta ,
   Hyderabad.

..... PETITIONERS

AND

Commissioner L.B Nagar Municipality
R.R District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction preferably one in the nature of writ of mandamus declaring the tender notice issued through Proc. No. C/7330/97 dated 1-10-99 issued by the respondent as illegal, and set aside the same.

Counsel for the Petitioner:MR.N.VASUDEVA RAO

Counsel for the Respondent : MR.V.VISWANATHAM

The Court made the following :

ORDER:

The petitioners, who are four in number, claimed to be the owners of lands comprised in survey Nos. 2, 9, 34 and 53 which they allegedly inherited from their ancestors, namely, Sahadev Singh and Lal Bahadur Singh. The respondent-Municipality issued a tender notice dated 1.10.1999 inviting tenders from entrepreneurs for setting up of a garbage processing plant for generating power/fuel/compost in survey No. 9 of Fathullaguda, L.B.Nagar Municipality Trenching Yard. As the petitioners claim the ownership rights and their case for rectification of the settlement register is still pending before the Joint Collector, Ranga Reddy District, they filed the present writ petition challenging the tender notice issued by the respondent-Municipality.

This Court admitted the Writ Petition and stayed all further proceedings pursuant to the impugned tender notice. Though *rule nisi* is duly served on the respondent, no counter-affidavit is filed.

The learned counsel for the petitioner has taken me through the affidavit in which the various proceedings taken out by the petitioners for rectification of the entries in the settlement register are narrated. It appears that though the District Collector recommended for rectification of the entries in the settlement register, the Commissioner of Survey and Settlement has remanded the matter and at present it is still pending before the Joint Collector. Therefore, pending the final decision by the revenue authorities as to the claim of the petitioners in relation to Survey No.9 of Fathullaguda, if the Municipality is allowed to set up any garbage processing plant, that would amount to contravening the law of Land Acquisition.

Therefore, the writ petition is disposed of declaring the action of the respondent in setting up garbage processing plant in Survey No.9 as illegal. It is, however, made clear that if ultimately the revenue officials reject the case of the petitioners for correction of entries in the settlement register, it shall be open to the Municipality to utilize the land after obtaining necessary orders from the District Collector. In case Survey No.9 is held to be the land belonging to the petitioners and other family members, it shall be open to the Municipality to acquire the land for any public purpose after following due process of law under Land Acquisition Act, 1894.

With the above observations and directions, the writ petition is disposed of.

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V.V.S.RAO, J

28th September, 2004.

Sh/bnr

To

1. Commissioner L.B Nagar Municipality
Ranga Reddy District.

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